

REMARKS

Claims 1 through 80 are pending in this application. Claims 74 through 80 have been newly added.

With regard to 37CFR§1.173(c), the following includes an explanation of the support in the disclosure of the patent for the additional claims. The newly added claims 74 through 80 are supported as a whole by Figures 1 through 3 and the entire specification of the present patent. Specifically, for example, added claim 74 is an apparatus claim that is supported for example by figures 1, 2 and the corresponding disclosure in the specification (*e.g.*, col. 3, line 1 to col. 5, line 37). Added claims 75-79 are supported for example by column 5, line 39 to column 7, line 21 with respect to figure 3. Added claim 80 is supported for example by col. 3, line 1 to col. 5, line 37 with respect to figures 1, 2, and also portions of col. 5, line 39 to col. 7, line 21 with respect to figure 3.

Requirement for Restriction

In Paper No. 6, the Examiner required Applicant pursuant to 35 U.S.C. §121 to elect between:

- Group I. Claims 1-8, drawn to color processing system with D/A converter, classified in class 345, subclass 589;
- Group II. Claims 9-15 and 61-73, drawn to setting a range of temperature, classified in class 345, subclass 101;

- Group III. Claims 16-23, drawn to a slope of a color temperature curve, classified in class 348, subclass 557;
- Group IV. Claims 24-27, drawn to color temperature storage, classified in class 345, subclass 27.
- Group V. Claims 28-31, drawn to color amplifier, classified in class 348, subclass 223.1;
- Group VI. Claims 32-38, drawn to a distinct spectral component, classified in class 356, subclass 328;
- Group VII. Claims 39-60, drawn to a microcomputer processing color signals, classified in class 345, subclass 595.

Applicant respectfully traverses the election requirement imposed in the Office action, but provisionally elects with traverse Group I.

Applicant objects to and traverses the election requirement on the grounds that the subject matter of the groups overlap. In addition, the mandatory fields of search for the embodiments are coextensive. Respectfully, it also appears that the election requirement is being imposed merely for administrative convenience and such a basis for imposition of such a requirement has been prohibited in previous decisions of the Commissioner.

As specifically stated in MPEP § 803, the examiner must show that the (A) The inventions

must be independent (see MEP § 802.01, § 806.04, § 808.01) or distinct as claimed (see MPEP §806.05 - §806.05(i)); **and** (B) There must be a serious burden on the examiner if restriction is required (see MPEP §803.02, § 806.04(a) -§806.04(i),§808.01(a), and § 808.02).

Clearly there is no serious burden since in the previous first office action, paper no. 3, the Examiner rejected claims 1 through 73, thereby examining all of the pending claims. The Examiner's requirement for restriction is improper because the Examiner has already issued the first office action. Therefore, it would be improper under MPEP §803 for the Examiner to issue a restriction requirement. It would also be improper for the Examiner to issue in the second office action a restriction requirement where no claims were amended in the response to the first office action.

Furthermore, for example, in group VI claims 32-38 is said to be drawn to a distinct spectral component, but this is the same as group II which is drawn to setting a range of temperature. Group VI includes in claim 32 setting a temperature range and determining gains and cutoff values, while in group II, claim 9 also includes selecting a temperature range and determining gain and cut-off data. Furthermore, claims 39-60 of group VII are said to drawn to a microcomputer processing color signals, but looking at claim 39, it involves a color curve control circuit comprising a data input unit and a microcomputer while group I, claims 1-8, is also a color curve control circuit comprising a data input unit and a microcomputer.

The Examiner made a restriction between seven (7) distinct groups, but these groups are not actually distinct, and the definitions of each of these groups are artificial. The Examiner identifies the distinctions between Groups II and III by the use of "a range" and "slope". These are actually

characteristics present in Group I, although the nomenclature is not used.

Furthermore, the Examiner stated that Group I, Claims 1-8, drawn to color processing system with D/A converter, classified in class 345, subclass 589. However, looking at the classification itself, it states class 345 is computer graphics processing, operator interface processing, and selective visual display systems and subclass 589 officially mentions color or intensity. It is clear that all the groups II through VII also mention color. With or without a D/A converter is never mentioned in the classification. Again, this distinction by the examiner is highly improper. Furthermore, claims 40, 49, 50 , 51 and 58 of group VII also mention a D/A converter.

The Examiner then mentions Group II, Claims 9-15 and 61-73, drawn to setting a range of temperature, classified in class 345, subclass 101. However, class 101 mentions officially data signal compensation in response to temperature. But, like the claims of group I, group II also concern color.

The Examiner mentions that Group III, Claims 16-23, are drawn to a slope of a color temperature curve, classified in class 348, subclass 557. However, looking at the official classification, class 348 involves television and subclass 557 involves color processing. Looking at claims 16-23, there is no limitation of the claims being limited to a television. Furthermore, claim 16 includes the providing of a range of temperatures as seen in claim 15, there is a setting of a range of color temperature values and again color of a color processing system of group I is also involved.

The Examiner states that Group IV, Claims 24-27, is drawn to color temperature storage, classified in class 345, subclass 27. Looking closely at subclass 27, it involves the combination with storage. Claim 24 of group IV mentions about stored color temperature values, but claim 15 of

group II also mentions the storing of color gain and cutoff data, and claim 1 of group I also mentions *stored color temperature value*. Claim 28 of group V also mentions about the storing of color temperature data. Therefore, the claims in groups I, II, IV and V, all claim the feature of storage.

The Examiner states that Group V, Claims 28-31, is drawn to color amplifier, classification in class 348, subclass 223.1. However, looking at class 348, it concerns television and claims 28-31 are not limited to televisions. Furthermore, subclass 223.1 mentions color balance, e.g. white balance and not a color amplifier. Moreover, claims 4, 5, 8 of group I, claim 27 of group IV and claims 44, 49, 51, 53, 55, 57 and 58 of group VII also mentions a color amplifier.

The Examiner states that Group VI, Claims 32-38, is drawn to a distinct spectral component, classified in class 356, subclass 328. However, looking at the official classification, class 356 concerns optics: measuring and testing and the subgroup 328 involves a diffraction gratings means. Again, the classification seem incorrect. Moreover, looking at distinct spectral components are also mentioned in claim 4, 5, 6 of group I, and also claims of groups II through VII.

The Examiner states that Group VII, Claims 39-60, is drawn to a microcomputer processing color signals, classified in class 345, subclass 595. However, looking at subclass 595, it mentions expert system or artificial intelligence. Furthermore, claims 1 and 5 clearly mention *a microcomputer processing color signals* of group I, claim 64 of group II also mentions a microcomputer.

Therefore, it is clear that the features the examiner is using to restrict the reissue application into seven (7) groups are mentioned by the elected group I. Furthermore, as shown in the above examples, the features of each group are overlapping in at least group I and many of the other groups.

Furthermore, as seen by the newly added claims 75 through 80, the all the features of groups II through VII are incorporated into group I, by the dependence of claims 75-80 to claims 1 and 5 of group I. Claim 75 which has the features of group II depends on claim 1 of group I, claim 76 which has the features of group III depends on claim 1 of group I, claim 77 which has the features of group IV depends on claim 1 of group I, claim 78 which has the features of group V depends on claim 5 of group I, claim 79 which has the features of group VI depends on claim 1 of group I, claim 80 which has the features of group VII depends on claim 1 of group I.

The Examiner stated that the inventions are distinct, each from the other because of the following reasons: Inventions I, II, III, IV, V, VI, and VII are related as subcombinations disclosed as usable together in a single combination; the subcombinations are distinct from each other if they are shown to be separately usable; in the instant case, invention group I has separate utility such as color processing system with a D/A converter without setting a range of temperature, a slope of a temperature curve, color temperature storage device, color amplifier, a distinct spectral component, or a microcomputer; in other word, each one of the inventions recited in groups I, II, III, IV, V, VI, and VII are separately usable in a system not having the other. See MPEP § 806.05(d).

However, as shown above, the other groups (II-VII), also show the features of color processing system with a D/A converter without setting a range of temperature, a slope of a temperature curve, color temperature storage device, color amplifier, a distinct spectral component, or a microcomputer and therefore, the examiner's reasoning is improper. Further, the distinctions are highly improper since for example claim 1 of group I and claim 39 of group VII both use the

word comprising and so to distinguish the group on the digital to analog converter is improper.

The Examiner goes on to say that these inventions are distinct for the reasons given above and have acquired a ~~separate~~ status in the art as shown by their different classification and their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

However, again this reasoning is improper in that showing that separate status in the art and distinct is still not enough to have a proper restriction requirement. As shown above, in MPEP §803, there must also be a serious burden on the examiner and as shown above, there cannot be a serious burden since a first office action has already been given before the restriction requirement and because of the subject matter of the groups overlap and the mandatory fields of search for the embodiments are coextensive as shown above.

Therefore, respectfully, as shown above and according to MPEP §803, it is clear that the restriction of the present reissue application into seven (7) groups is highly improper.

In view of the above, it is requested that the election requirement be withdrawn. It is further submitted that the application is in condition for examination on the merits, and early allowance is requested.

In view of the foregoing election, this response is believed to be a complete response to the Requirement for Restriction. Should any questions remain unresolved, the Examiner is requested to telephone Applicant's attorney.

A fee of \$212.00 is incurred by the foregoing Amendment for the addition of one (1) independent claim above twenty-one (21) and the addition of seven (7) claims above seventy-three (73). Should there be a deficiency in payment, or should other fees be incurred, the Commissioner is authorized to charge Deposit Account No. 02-4943 of Applicant's undersigned attorney in the amount of such fees.

Respectfully submitted,



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